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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/059,559      | 01/29/2002  | Todd McGee           | 38021.010000        | 5781             |

7590 06/17/2005

GREENBERG TRAURIG, P.A.  
1221 Brickell Avenue  
Miami, FL 33131

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| EXAMINER |
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ZEENDER, FLORIAN M

|          |              |
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| ART UNIT | PAPER NUMBER |
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3627

DATE MAILED: 06/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/059,559

Applicant(s)

MCGEE, TODD

Examiner

F. Ryan Zeender

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) 4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/29/02</u> | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION*****Election/Restrictions***

Applicant's election with traverse of claim 1-3 and 5 in the reply filed on 4/12/2005 is acknowledged. The traversal is on the ground(s) that claim 4 cannot be fully performed by hand because a "database" is inherently a computer science term and a database is not readily searchable by hand. This is not found persuasive because a database does not have to be related to a computer (i.e., card catalogue) and a non-computerized database can be searched by hand. Further, the applicant argues that there is no increased burden in searching the method claim in addition to the system claim. However, this is also not found to be persuasive because claim 4 comprises limitations that are patentably distinct from the other claims, which would require additional searching and therefore create a material burden for the Examiner.

The requirement is still deemed proper and is therefore made FINAL.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skinner '311.

Skinner discloses a system for conducting multiple-item (i.e., supply amount) search queries (See for example paragraph 0037, lines 14-16) in a system for engaging

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in e-commerce; computer hardware, software and storage means containing information regarding suppliers and products available for purchase (See for example paragraphs 0031-0036); servers providing Internet-based access and use of the system (See for example 0023); means for buyers to search for multiple products/services (i.e., multiple amounts of the same product) by entering a single search query (See for example 0037, 0043); means for providing search results whereby the results are grouped (i.e., group of suppliers) and ranked (See for example paragraph 0037 and paragraph 0049) by supplier based on which supplier has the greatest capability to supply multiple amounts of product.

Skinner lacks the specific teaching of the search results being ranked by the supplier having inventory for the **greatest number** of queried products/services.

It would have been an obvious design choice to one of ordinary skill in the art at the time of the invention to modify Skinner to have the ranking be for the supplier having inventory for the **greatest number** of queried products/services, as the result for the greatest capability to supply products/services (***as taught by Skinner***) is directly proportional to a result for the greatest number of products/services, and to substitute one type of result for the other would produce similar desired information resulting in a similar final outcome.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Skinner '311 in view of Shavit et al. '156.

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Skinner lacks the specific teaching of transmitting RFQ's and receiving responses to RFQ's.

Shavit et al. teach that it is well known in the art to transmit/receive information with respect to RFQ's (See for example Cols. 12-15).

It would have been obvious to one of ordinary skill in the art to modify Skinner et al. to include transmitting RFQ's and receiving responses to RFQ's, in view of Shavit et al., in order to provide on-line interactive sales service (See Shavit et al., lines 45-48).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Ryan Zeender whose telephone number is (571) 272-6790. The examiner can normally be reached on Monday-Friday, 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bob Olszewski can be reached on (571) 272-6788. The receptionist's phone number for the Technology center is (571) 272-3600 .

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

F. Zeender  
Primary Examiner, A.U. 3627  
June 13, 2005

 6/13/05  
**F. RYAN ZEENDER**  
**PRIMARY EXAMINER**